

## CLAY COUNTY PLANNING AND ZONING COMMISSION MINUTES

**July 10, 2012**

Regular meeting of the Clay County Planning and Zoning Commission, Commission Hearing Room, 3<sup>rd</sup> Floor, County Administration Building, One Courthouse Square, Liberty, MO.

Call to Order at 6:30 pm.

Roll Call

Members Present: Karl Walters, Jim Edwards,  
Barbara Ball and Mark Beggs

Members Absent: Gene Knisley and Jeff Richerson

Staff Present: Matt Tapp, Director  
Debbie Viviano, Planner  
Angie Stokes, Secretary

**Mr. Tapp:** I would like to call the July 10, 2012 Planning and Zoning Commission Meeting to order. This is Matt Tapp Director of Planning and Zoning filling in for Mr. Chairman Gene Knisley and Vice Chair Jeff Richerson who are both unable to attend this evenings meeting. If I could have roll call?

**Mr. Tapp:** Karl Walters?

**Mr. Walters:** Present.

**Mr. Tapp:** Jim Edwards?

**Mr. Edwards:** Present.

**Mr. Tapp:** Jeff Richerson?

**Mr. Richerson:** Absent

**Mr. Tapp:** Barbara Ball?

**Mrs. Ball:** Present

**Mr. Tapp:** Mark Beggs?

**Mr. Beggs:** Present.

**Mr. Tapp:** Gene Knisley?

**Mr. Knisley:** Absent

**Mr. Tapp:** Go ahead Jim.

**Mr. Edwards:** Since we do not have our regular chairmen here tonight, I would like to nominate Mark for our temporary fill in tonight and we will just nominate him.

**Mrs. Ball:** Second

**Mr. Tapp:** Karl Walters?

**Mr. Walters:** Approve.

**Mr. Tapp:** Jim Edwards?

**Mr. Edwards:** Approve.

**Mr. Tapp:** Barbara Ball?

**Mrs. Ball:** Approve.

**Mr. Tapp:** Mark Beggs?

**Mr. Beggs:** Approve.

**Mr. Tapp:** Ok good. I will pass the meeting over to you Mark.

**Mr. Beggs:** Okay, thank you Matt. Welcome everyone to the July 10<sup>th</sup> of the Clay County Planning and Zoning Commission. The first order of business is to approve the minutes from the June 5<sup>th</sup> meeting.

**Mr. Tapp:** That is correct.

**Mr. Beggs:** Do I have a motion, or let the commission review those and if there is any corrections we can make that before taking a vote to accept them. Any questions?

**Mrs. Ball:** I was not here.

**Mr. Beggs:** Okay.

**Mr. Ball:** So I have nothing to say.

**Mr. Tapp:** Well if Barbara was not here we cannot approve them, so we will move on to the next item.

**Final Vote: No Quorum**

**Mr. Beggs:** Starting our regular agenda, we are going to rearrange some of our cases. We are going to take what is on our agenda number 3 and move it up to the front. That is case number July 12-111RZ which is a request for rezoning from Residential Rural Eistrict (R-1) to Agricultural for Lot 1 of Owens Estates a subdivision located at approximately 7412 NE 160<sup>th</sup> Terrace. The applicants are Zach and Lisa Taylor. I will turn it over to staff for their report.

**Mrs. Viviano:** Summarized the staff report. Staff report July 12-111RZ dated May 23, 2012, and part of the case file is hereby made as an attachment to the minutes. The applicant is here if you have any questions.

**Mr. Beggs:** Ms. Taylor can you come up and stand at the podium and state you name and address for the record.

**Mrs. Taylor:** Lisa Taylor, 7412 NE 160<sup>th</sup> Terrace, Smtihville, MO 64089.

**Mr. Beggs:** Just wanted to know if you had any questions regarding the staff's report and if you were in agreement with what they have said.

**Mrs. Taylor:** Right. No questions and I am in agreement.

**Mr. Beggs:** Okay. Any discussion? Do you have a motion?

**Mrs. Ball:** Mr. Chairman I make a motion that we approve case number 12-111RZ for rezoning from residential to agricultural for Lot 1 Owens Estates with the petitioner addressing the zoning standards.

**Mr. Edwards:** I second.

**Mr. Beggs:** Is there any public comments for the record before we take a vote?

**Mr. Tapp:** There is a motion Mr. Chairman Pro-Tem, if you want to continue that motion.

**Mr. Beggs:** Yes let's continue it, take a vote.

**Mr. Tapp:** Karl Walters?

**Mr. Walters:** Approve.

**Mr. Tapp:** Jim Edwards?

**Mr. Edwards:** Approve.

**Mrs. Tapp:** Barbara Ball?

**Mrs. Ball:** Approved.

**Mr. Tapp:** Mark Beggs.

**Mr. Beggs:** Approved.

**Mr. Beggs:** Thank you.

**Mrs. Taylor:** Thank you so much.

**Final Vote: 4/0/0 Approved July 12-111RZ; Owens Estates**

**Mr. Beggs:** The second case we will look at is case number July 12-109F which is a request for final plat approval of Ferrell Estates a proposed subdivision located at approximately 12104 N Stark Avenue. The applicant is Adam Ferrell, representing Bob Ferrell.

**Mrs. Viviano:** Summarized the staff report. Staff report July 12-109F dated June 5, 2012, and part of the case file is hereby made as an attachment to the minutes. The applicant is here if you have any questions.

**Mr. Beggs:** Mr. Ferrell, state you name and address for the record.

**Mr. Ferrell:** Adam Ferrell, 12104 N Stark.

**Mr. Beggs:** After you have listened to the staff report are you in agreement with all of the conditions.

**Mr. Ferrell:** Yes sir.

**Mr. Beggs:** Any public comments and the staff's report?

**Mr. Tapp:** Mr. Chairman Pro-Tem, just a point of clarification, I tried to contact the surveyor with this question but it is Providence Hills with a "s" and Estates with a "s" is that okay or do you want Providence Hill Estates? Do you want a "s" on Hills and "s" on Estates?

**Mr. Ferrell:** Let's just leave it singular.

**Mr. Tapp:** Providence Hill Estates. Okay

**Mr. Ferrell:** There is only one hill there.

**Mr. Tapp:** I am glad I asked.

**Mr. Ferrell:** Good clarification Matt. Thanks.

**Mr. Tapp:** So I recommend that condition 5 (a) be changed to Providence Hill Estates. Estates with a "s" there are multiple estates. Two of them correct?

**Mr. Ferrell:** Yes. If you want to call it an estate, it is a little above my pay grade.

**Mrs. Ball:** I have a question. Where do they go to get a shared driveway easement? And who approves it once it is done? To make sure it goes on when they die?

**Mr. Tapp:** Since it is on the proposed final plat, here Barbara, it will stay with the property forever until we – you all approve a vacation.

**Mrs. Ball:** Is that why you are asking for it?

**Mr. Tapp:** There is... we are requesting a shared driveway agreement, which the agreement we record at the same time as the plat that will spell out who exactly is responsible for what.

**Mrs. Ball:** I know but who approves it, or do you guys approve it, or do you guys just tell them they have to get one?

**Mr. Tapp:** We review it to make sure it has everything in it.

**Mrs. Ball:** Okay I just wanted to make sure.

**Mrs. Viviano:** They are pretty standard and an attorney draws them up.

**Mrs. Ball:** I know, but when I was with the title company I seen so many poorly written ones that did not run with the land.

**Mr. Tapp:** Or none at all.

**Mrs. Ball:** Or none at all yeah. I don't have any more questions.

**Mr. Tapp:** Thank you. Good questions.

**Mr. Beggs:** Any other discussions? Then do we have a motion?

**Mrs. Ball:** Mr. Acting Chairman I make a motion that we approve the final plat to be known as Providence Hill Estates with the 5 conditions. And number 5 being that the "s" off of Hills.

**Mr. Beggs:** Do we have a second?

**Mr. Edwards:** I second.

**Mr. Tapp:** Karl Walters?

**Mr. Walters:** Approve with the conditions.

**Mr. Tapp:** Jim Edwards?

**Mr. Edwards:** Approve with 5 conditions.

**Mr. Tapp:** Barbara Ball?

**Mrs. Ball:** Approve with 5 conditions

**Mr. Tapp:** Mark Beggs

**Mr. Beggs:** Approve with 5 conditions.

**Mr. Beggs:** Thank you.

**Final Vote: 4/0/0      Approved with 5 conditions      July 12-109F; Ferrell Estates**

**Mr. Beggs:** Next case on our agenda is Case Number July 12-110F. A request for a final plat approval of Minnick Farms a proposed subdivision located at approximately 8825 NE 198<sup>th</sup> Street. The applicants are Ken and Karen Minnick.

**Mrs. Viviano:** Summarized the staff report. Staff report July 12-110F dated May 14, 2012, and part of the case file is hereby made as an attachment to the minutes.

**Mr. Tapp:** And Mr. Chairman Pro-Tem I don't believe the applicants or any representative of the applicants are here. So you have two options, because we did not hear back from the Minnick's or the surveyor on the 10 acres, you can either table it until next month's meeting, which has no items on the agenda to date, or can go ahead and recommend the approval with the change to 10 acres. And then if the applicants between now and the County Commission Meetings do not agree with it then it will come back to you all. So I would recommend that the latter one where you go ahead and recommend approval. Because I don't think this is enough of a major issue to hold it up here.

**Mr. Beggs:** You don't know why it got reduced to 8.95 acres.

**Mr. Tapp:** I do. I talked to the surveyor once, but he was supposed to get to the Minnick's and then get back to me. He just wanted 30 acres even for the other lot and doing so it knocks the 10 acres down to 8.95 and we cannot have that, because it was rezoned to R-1 and it requires 10 acres.

**Mr. Beggs:** There is no physical reason? It is a matter of convenience.

**Mr. Tapp:** No I think he just wanted the rest to be an even 30 not 27.

**Mr. Beggs:** Are there any public comment on the staff report? I recommend we go ahead and vote on it, approve it. And if they have a problem then can come back to you and then we can review it then.

**Mr. Tapp:** Yes

**Mr. Beggs:** Do we have a motion?

**Mrs. Ball:** Yes, but first I am confused. So if we approve it, but they don't have to go through with it? Is that right, the owners don't?

**Mr. Tapp:** Go through what? I am sorry, Barbara.

**Mrs. Ball:** If we approve it then they have to redo the 30 acres down a couple acres?

**Mr. Tapp:** Right. They have to get that lot 1 back up to 10 acres. That is your approval. If they cannot do that then it will get kicked out and come back to us (staff) then back to you.

**Mrs. Ball:** Okay

**Mr. Beggs:** We are approving with that condition.

**Mrs. Ball:** Okay I realize that.

**Mr. Tapp:** Just approve it as it is written by the staff report and you will be fine.

**Mrs. Ball:** Mr. Pro-Tem Chairman I recommend that we approve the final plat of Minnick Farms with the three (3) conditions.

**Mr. Edwards:** Second.

**Mr. Beggs:** Do we have a vote.

**Mr. Tapp:** Karl Walters?

**Mr. Walters:** Approve.

**Mr. Tapp:** Jim Edwards?

**Mr. Edwards:** I approve with three (3) conditions.

**Mr. Tapp:** Barbara Ball?

**Mrs. Ball:** Approved with three (3) conditions.

**Mr. Tapp:** Mark Beggs?

**Mr. Beggs:** Approve with three (3) conditions.

**Final Vote: 4/0/0 Approved with 3 conditions July 12-110F; Minnick Farms**

**Mr. Beggs:** Next item on our agenda is Case number July 12-112P. A request for preliminary plat approval of the Tranquil Acres a proposed subdivision located at approximately 17400 Plattsburg Road. The applicants are Russell, Fred and Eldon Walter, representing Real Beef, LLC. I am going to ask that the staff reports be attached to the minutes of the meeting. I don't think we have talked about that but we want those in there.

**Mr. Tapp:** Yes you beat me to the punch.

**Mrs. Viviano:** And that would be for the former reports.

**Mr. Beggs:** Yes that is for all the reports that we had for this evening.

**Mr. Tapp:** So Mr. Chairman Pro-Tem if I may proceed with the staff report summery.

**Mr. Beggs:** Please.

**Mr. Tapp:** Summarized the staff report. Staff report July 12-112P dated June 4, 2012, and part of the case file is hereby made as an attachment to the minutes.

**Mr. Tapp:** An update since the Staff Report was written and tonight's meeting and speaking with the Soil and Water Conservation or NRCS. Mr. Robert Brejcha had indicated in his report that I believe the staff has handed out to the Chairman Pro-Tem Debbie did everyone get a copy? We will get the other copies and hand those out. Mr. Brejcha had indicated that there is some indication when he was out there during his inspection that the spillway pipe and general system looked to be not in the best condition and it is Mr. Brejcha's recommendation that a registered professional engineer with the State of Missouri review it. And either verify that it is in a too far deteriorating state or say it is okay. He said once a professional engineer has signed off on it or given their recommendations he will be satisfied per say. So that is an update to the outside agency review. (Continue with Staff Report) Therefore it is recommendation of staff that there are two options for Tranquil Acres both in preliminary plat and final plat, which we will get to hear afterwards. Do to the new findings by Robert Brejcha, you can either table it so there is time for the professional engineer to review it and arrive at their decision. Or go ahead and approve the preliminary plat and the final plat with an additional or with an actually change to condition number two to read that a professional engineer review the pond and the spillway system for any possible life safety conflicts. Something to that extent and we can figure out the language. Those are basically the two choices; we can table it here or go ahead and move it on to the County Commission with that change in condition. And also, I am sorry, on an unrelated note condition Three (b) was inadvertently included and so I also recommend to strike condition three (b) in the preliminary plat. The applicants are here if you have any further questions.

**Mr. Beggs:** The size of the pond?

**Mr. Tapp:** Eight and a half acres.

**Mr. Beggs:** Eight and a half acres.

**Mr. Tapp:** It is a rather large.

**Mr. Beggs:** And how deep is it?

**Mr. Tapp:** I think the applicants will answer that, probably I will assume 30 at the toe of the dam.

**Mr. Beggs:** Would you please state your name and address for the record.

**Mr. Eldon Walter:** My name is Eldon G Walter I am at 4510 North Mulberry Court, Kansas City, MO 64116. I don't we may have to crawl out there on a pontoon boat and stick a stick down, but I would guess that the silt and fill in that pond I would be extremely surprised if it is more than average of 8 foot deep. It covers quite a bit of space because it is spread out and there is actually two ponds above it on the same creek, that is out of the Platte. So it does not get any undue water stress on it. It will fill up, it won't fill up this summer, but it will fill up. And I think we are a little frustrated that we would even have an issue with a pond that has been there forever and the only reason we are looking at it is because we are carving off 20 acres out of 180 acre track. If we sold Russell 180 acres nobody would be looking at it. But we respect the process none the less. I think we would be happy and okay if we would go ahead and approve the preliminary plat and the final plat with the addition that before the Commissioners vote on it that we would provide an engineering report that would hopefully define that the tube that is there, while it is rusty and I have looked at it we have taken pictures of it, it doesn't appear to be in a state of crumbling and ready to fall apart there. In any event what we would do is we would be pleased, because we want to keep the project moving. Russell and his wife and children are anxious to get on with building their house, so they can enroll their two young girls in school in Kearney this fall. Without any undo hassle of driving all the way to Kearney after they have registered the girls or living in some other kind of component that is on the property. So we would like to keep it moving along, that would be our intent. We would fully expect that, again, that an engineer would say there is not undo risk to that tube that is in there. It goes straight down, is what it does, and then comes out the bottom of the pond, is what it does, almost straight into a culvert that goes across the road. I believe there is nothing across the road that is of a structural nature that sits in or near the creek bed that would create any kind of undo risk to life, limb or anything else. I noticed the person who examined the pond said it was well maintained that was in the terms of good. And I think his only concern was the trees on the backside of it that have been there for a very long time. It is kept mowed and it is kept maintained. So we would certainly appreciate do consideration to that process, does the Commissioners meet, when do they meet next that would approve the subject to that?

**Mr. Tapp:** The cases that are heard tonight, Eldon are going to be heard at the County Commission on the 23<sup>rd</sup> if approved, Monday the 23<sup>rd</sup> 1:30 in this same room.

**Mr. Walter:** Would the mechanics be, assuming that we can get that done between now and then so that everyone would be happy that would be fine. Would the mechanics work something like this, if an engineer could not get there or write his report by that date, it would be tabled at the Commissioners desk and then they would see it immediately thereafter as opposed to it coming back here again for another process.

**Mr. Tapp:** That would be the process and actually the County Commission is two steps, it is a work session and a business session. So if we table the work, you got to go two more weeks to the next work session. But yeah that certainly would be the process.

**Mr. Walter:** 'Cause we would prefer not get all the way into September before the Commission takes a look at it. I am not sure what else I could add other than that would be our desire and our willingness to work and respect the process of needing to validate to you all that there is not some issue with the pond that should create issues down the line.

**Mr. Beggs:** I see the report from the Soil Conservation is dated July 9<sup>th</sup> so this has been fairly recent.

**Mr. Walter:** Yes we just saw it today.

**Mr. Tapp:** We just got a copy, actually, when was it Debbie today?

**Mrs. Viviano:** Yesterday

**Mr. Walter:** And we have not had a chance to visit with him about it, evidently he is part-time for them.

**Mr. Tapp:** Yes he is part time, semi-retired, yes.

**Mr. Walter:** Is he an engineer or just a ...

**Mr. Tapp:** He is not a PE but he has been doing it for 33 years.

**Mr. Walter:** Okay, well he has experience. He is a man with experience.

**Mr. Tapp:** Yes he is.

**Mr. Beggs:** I think it would be prudent to have a P.E. take a look at it. I mean it is a fairly good size pond, fairly substantial amount of water. I was looking at the report to see, it says it is predominantly rural, agricultural low-density urban downstream, labeled B significant under hazard classification.

**Mr. Walter:** Yes, I have some pictures, here, this is the tube he is talking about there is a grid around it and this is a buffer to keep logs from bouncing it real hard and it goes straight down, is what it does. You can see, a picture is only a picture, to the normal eye. This is a closer picture of the steel which you would expect of something that has been there for 40 years already to have some rust on it. This is actually the dam, this is the dam behind it here and this is Russell's truck sitting on the dam so you can see there is quit a pit of water even below the tube.

**Mr. Beggs:** Upstream or downstream picture?

**Mr. Walters:** Downstream and the pond is that way. I think I may have another picture here. This is where the water comes out way down low about 20 feet down. Obviously that tube would be clear, that does not mean the water behind would be (*inaudible*) Then this is the tube that goes across the road. This is a close picture of what is immediately across the road and this is a bit of a further view. So you can see it is all trees and grass down there. There is one structure, you can see it through the trees, but this is back up a ways from the creek bottom. Those are yours to keep.

**Mr. Beggs:** Okay, thank you.

**Mr. Walter:** Anything else I can add? Any other questions?

**Mr. Tapp:** Mr. Chairman Pro-Tem I move that we add the pictures from the applicants as exhibits B through however many we have. Because exhibit A is the conditions of the approval, so I would say B onto however many letters we got to go to. I also request that in reviewing condition number two, the wording is actually fairly good, coming right in line of what we want to do here. But change condition number two to reflect inspection and approval of existing dam structure by a Registered Professional Engineer in the State of Missouri prior to Commission meeting or approval or however you want to word it towards the end. Just basically take out "before recording of the final plat" and in its place put "by a Registered Professional Engineer in the State of Missouri prior to County Commission approval" you can go all at approval.

**Mr. Beggs:** Do you want to run that by me one more time?

**Mr. Tapp:** Sure. Change the end of the statement, at the end, you should have a copy of the staff report everyone should, but condition number 2 currently says “inspection and approval of the existing dam structure before recording of the final plat” strike out “before recording of the final plat” at the end and in its place put “by a Registered Professional Engineer in the State of Missouri prior to County Commission approval”

**Mr. Beggs:** Is that agreeable?

**Mr. Walter:** Yeah I think so, my only issue would be, not an issue, but a question would be what does that mean? You know if the Engineer says “great lookin’ pond, love it go with it” or he says “it got 20 years to roll on that tube” what are you going to do about that now?

**Mr. Tapp:** I would say, if it is a favorable report by the PE that is what we are talking about approval, so they say it is ok there is no issue of harming any type of property or people, because there is a about a 20 foot drop according to the digital elevation information, about a 20 foot drop from the top.

**Mr. Walter:** Yes there is.

**Mr. Tapp:** From the top of the dam to the street. He says that if the dam happens to fail in any extent that there probably be standing water on Plattsburg Road and that bridge there, I would say that is what we are concerned about. There are also houses downstream and could the water level go above the established stream bank. I don’t know but eight and a half acres of water is a lot.

**Mr. Walter:** I think once they add the premise that it is not eight and a half acres and 20 feet deep.

**Mr. Tapp:** He was going on the average of 15 feet deep.

**Mr. Walter:** I doubt that it is that deep.

**Mr. Tapp:** Most government.... Yeah 15.

**Mr. Walter:** You would have to ask the people who sneak on there and fish all the time how deep it is.

**Mr. Tapp:** That is just my concern as public officials, as planners we protect the health, safety and welfare of our citizens.

**Mr. Walter:** We understand that.

**Mr. Tapp:** That is where we are coming from basically.

**Mr. Walter:** Thank you.

**Mr. Beggs:** Any public comments? Please step forward and state your name and address.

**Mr. Homoly:** I am Guy Homoly and I own the second house just north of that property. That property was divided by Hal Reed 10 – 15 years ago and there is 10 lots up and you can see their lot is in the bottom there three or four lots that surround that lake. We welcome the fact that Russell is coming in there at a 20 acre lot. We had many conversations with Eldon already about making it a high density subdivision behind us and that is all past, so we welcome that situation. You made reference to this one point, I am a builder, and whenever I go down to Mission Hills and stuff the first thing I got do is submit the plans for architectural approval. The only question we have is, and you made comment to this about the restrictions and covenant we had to follow in Saddlebrooke Subdivision of house size, type of house, architectural design and that thing, so it fits into the neighborhood. Now talking to Russell, they are going to put a modular house up there. I have seen beautiful modular homes and I have seen terrible modular homes, I have torn down many of them. And I just want to know if he will be subject to the same covenants and restrictions that we were when we all built there? You are shaking you head no.

**Mr. Tapp:** I would have to review their covenants but I highly doubt it includes the subject area, so no the covenants would not apply to this subdivision. Only if the Walter’s approve to that, we are not going to require that.

**Mr. Beggs:** You did mention that the pond is covered by ...

**Mr. Tapp:** The pond is covered by a use right, that is revocable but the pond itself is usable for Saddlebrooke too. I don’t know about to the North.

**Mr. Walter:** Just Saddlebrooke II.

**Mr. Tapp:** Okay just Saddlebrooke II.

**Mr. Beggs:** So it is just so residents of Saddlebrooke II can use the pond.

**Mr. Homoly:** That is really a touchy area. Because we bought it from Hal Reed and we were all promised in our contract that we could use the pond not knowing that it wasn’t platted to us and we found out later that we could not use the pond, so it was a very touchy area and a very emotional time.

And so our concern is that something goes up there that is not consistent with the neighborhood that is our biggest concern.

**Mr. Tapp:** We have guidelines for modular housing, the big one is the pitch. We have an increased pitch so you cannot have what can be considered a mobile home. We just protect that interest so but for architectural review, no we don't have any type of architectural review board or anything like that. But basically pitch requirement for a modular.

**Mr. Homoly:** What do you mean by a pitch, I don't understand?

**Mr. Tapp:** Roof pitch, I am sorry. There are certain angles.

**Mr. Russell Walter:** It cannot come in as a 3:12 pitch it has to be like a 6:12.

**Mr. Tapp:** Yeah I think it is a 6:12.

**Mr. Homoly:** How about as far as square footage and stuff like that.

**Mr. Tapp:** We have a 1,000 foot minimum for all single families. No matter what, that's countywide.

**Mr. Homoly:** You can see the problem.

**Mr. Tapp:** It could be.

**Mr. Homoly:** Russell yeah come on up. I am just concerned.

**Mr. Tapp:** We are starting to get down into the subdivision level, the micro level. We are still at the macro level.

**Mr. Russell Walter:** I am Russell Walter; I live at 1051 North Central, Kansas City, MO 64155. The house we are going to build is completely consistent with the rest of the neighborhood. We don't want to live in something that doesn't fit in that area, to begin with. It is going to be about 22 hundred square foot on the main level, Ranch style house.

**Mr. Homoly:** That is fine.

**Mr. Russell Walter:** So it is completely consistent with what is there, good vinyl siding on the outside of it and some brick.

**Mr. Homoly:** It doesn't seem a problem, homes that range from \$350,000 to a million, so if we had a home that is 1,000 square foot that we call doublewides down South, it just brings the whole neighborhood right down to the pits.

**Mr. Russell Walter:** No this one is a big four piece modular that is going to come in. So it is completely consistent with the rest of the houses in the area.

**Mr. Homoly:** That is fine. Welcome to the neighborhood.

**Mr. Beggs:** Any other comments?

**Mr. Ohl:** I am Robert Ohl. I live at 12813 NE 174<sup>th</sup> St. I am the structure below the pond dam and I am not so much worried about the tube that you all were talking about, but the dam itself. I just thought it was good time to bring it up while everyone is looking at it. It's leaked ever since I have lived there, the creek never quits running.

**Mr. Beggs:** I think when the PE takes a look at that...

**Mr. Ohl:** Nothing against you all (Walter's), it is just a time to take a look at the pond.

**Mr. Beggs:** I think their concern is to have a professional engineer to take a look at it and say "there is no safety concerns or it is not going to endanger people downstream" I think that is the concern.

**Mr. Ohl:** It is not just a spillway thing.

**Mr. Beggs:** Right. They will be reviewing the whole structure. The earthen portion, the spillway, they will look at all of it.

**Mr. Ohl:** The following water out of it, it always has.

**Mrs. Ohl:** My concern is the creek does come up over the banks in our backyard. It has come up quite high sometimes. I don't know if you are aware of that. I am his wife. The creek has come up out of the banks several times. You know in that back area. There were a few times I wanted to dam it up and put a pond in our backyard. But we can't.

**Mr. Ohl:** That was our plan when we moved there, but you cannot back water to a road or you cannot have a pond dam above a road like this one is.

**Mr. Beggs:** In that respect the dam actually helps you. It retains the water and lets it out through the tube unless it is going over the top. It's slowly letting the water out as opposed to just having an open creek and it is coming down as fast as it can run in.

**Mr. Ohl:** I thought it was a good opportunity to look at this.

**Mr. Beggs:** Yeah I think it is a good idea to have someone take a look at this.



**Mr. Ohl:** What would be the recourse if there is a problem with it?

**Mr. Beggs:** That would be up to the owners I assume.

**Mr. Ohl:** It doesn't even sound like it is their pond dam.

**Mr. Walter:** It is our pond and the use by the people in Saddlebrooke II is four lots (*inaudible*) a restriction. The restriction is the leisure the declaration we have to be the owner of the declaration (*inaudible*). We have no intention of changing anything that has happened there for the 10 years that have owned the piece of property.

**Mrs. Ohl:** But what if there is something structurally wrong with the dam or whatever?

**Mr. Tapp:** Sure let's cover the PE, let's say the professional engineer or PE for short comes back and says there are some serious issues and then hopefully the PE will highlight, here is how to resolve..

**Mrs. Ohl:** I don't wish that on you at all but I was just curious.

**Mr. Tapp:** But if they say do 1, 2, 3 or 1 however many conditions to make it better, then that will be one of the conditions of approval. If this board says okay go ahead and approve it with that condition that the PE is going to review it. Then the PE report comes back and it is at the County Commission's discretion. The next step as how they want to handle it. If they want to hold it until it gets resolved or go ahead and approve it and not record the final plat to where it is fully official until we get a positive PE final report. That is one of two options.

**Mr. Ohl:** We are just curious, is there another meeting where we will find this out?

**Mr. Tapp:** Yes, their recommendation, let's say they do approve it with that condition the PE is going to do the report it will go to the County Commission that is two steps. There are two meetings. One is the 23<sup>rd</sup> and the next will be the seven days after that, so the 30<sup>th</sup>. And so we will see kind of in the 23<sup>rd</sup> time frame where the PE in all of this is. I would encourage if you have any concerns or what not, come the 23<sup>rd</sup> it is at 1:30 pm. I know it is kind of inconvenient to working professionals but it is 1:30 pm or call us. Be at the meeting or call us and give us your contact information and we will keep you in the loop. We would be happy too.

**Mrs. Ohl:** Thank you.

**Mr. Beggs:** Any other comments? If we table it at this level it is going to delay a month plus they will still have two commission meetings they have to go through. So it will be a month plus another three weeks.

**Mr. Tapp:** Yes it will definitely be in September or close to it.

**Mr. Beggs:** Okay. I think I am okay to letting the County Commission rule on it with the PE. I think we definitely need to have an engineer take a look at the dam. It is hard to tell from the pictures what the condition of it is, the report we have from the Soil Conservation Service has raised some concerns, so I think it is prudent to have someone look at it. So that would be my recommendation, to pass it on to the County Commission, let them rule on it having the PE's report. And that lets the applicants, if they decide, if the PE report comes back and it requires a major rebuild at that point you can make the decision whether to precede or not. And that keeps them moving and hopefully does not create a burden on anybody. And still protects the public.

**Mr. Beggs:** Is that the staff's recommendation as well?

**Mr. Tapp:** Yes I would say that is a good approach. Good proposition to let the County Commission, the more conservative approach would be to table it here. Unfortunately that would put it toward September and into the school year. We would be comfortable with the Planning and Zoning Commission recommending approval with the PE at the County Commission level. It really is ultimately up to this board as to whether you want to keep here or move it on.

**Mr. Beggs:** How do you guys feel about it?

**Mr. Edwards:** It sounds good to me.

**Mr. Beggs:** Pass it on?

**Mrs. Ball:** I pass it on because of you, you know more about dams than I do. I would table it myself, but if you think it is okay I will go with it.

**Mr. Beggs:** Karl?

**Mr. Walters:** I am good with it.

**Mr. Beggs:** Letting it go to the County Commission?

**Mr. Walters:** Yes

**Mr. Beggs:** Okay

**Mr. Walters:** You know the Commission is going to ask us questions.

**Mr. Beggs:** I would be totally comfortable to leave it here if there wasn't such a delay. I will go to the meeting at 1:30, if I can be there, to represent us and talk about that, to make sure everything is safe. The dam is safe.

**Mr. Tapp:** That would be good.

**Mr. Beggs:** Are we ready to make a motion?

**Mrs. Ball:** Mr. Chairman Pro-Tem I make a motion that we approve the preliminary plat minor subdivision Tranquil Acres with three conditions and number three (b) being deleted and two being type to read as "inspection approval of the existing dam structure by a registered Professional Engineer of the State of Missouri prior to the County Commission approval" and with the pictures being submitted as Exhibits.

**Mr. Edwards:** Second

**Mr. Beggs:** Take a vote.

**Mr. Tapp:** Karl Walters?

**Mr. Walters:** Approve with the conditions.

**Mr. Tapp:** Jim Edwards?

**Mr. Edwards:** Approve with conditions.

**Mr. Tapp:** Barbara Ball?

**Mrs. Ball:** Approve with conditions.

**Mr. Tapp:** Mark Beggs?

**Mr. Beggs:** Approve with conditions.

**Final Vote: 4/0/0      Approved with conditions      July 12-112P; Tranquil Acres**

**Mr. Beggs:** Final case number is July 12-113F which is a request for a final plate approval of Tranquil Acres a proposed subdivision located at approximately 17400 Plattsburg Road. The applicants are Russell, Fred and Eldon Walter, representing Real Beef, LLC.

**Mr. Tapp:** Mr. Chairman Pro-Tem, I recommend that we attach the staff report as part of the record.

**Mr. Beggs:** Please do so.

**Mr. Tapp:** Summarized the staff report. Staff report July 12-113F dated June 4, 2012, and part of the case file is hereby made as an attachment to the minutes.

**Mr. Tapp:** Ditto as for the preliminary plat is remove three (b) and then change the language in two to reflect the language that was recommended for change in the preliminary plat to reflect exactly word for word and you don't have to repeat it but it reflects the preliminary plat.

**Mr. Beggs:** Did you say delete three (b)?

**Mr. Tapp:** Three (b) yes.

**Mr. Beggs:** Which is the no clearing or grading.

**Mr. Tapp:** Yes, it does not apply.

**Mr. Beggs:** Okay

**Mr. Tapp:** It was inadvertently included.

**Mr. Beggs:** Okay.

**Mr. Tapp:** And the two changes to reflect the change of language on the preliminary plat.

**Mr. Beggs:** Any public comment? Any discussion staff or commission?

**Mr. Tapp:** No

**Mrs. Ball:** No

**Mr. Beggs:** Do I have a motion?

**Mrs. Ball:** Mr. Chairman Pro-Tem, I make a motion that we approve the final plat of Tranquil Acres with the three conditions as noted in the preliminary plat.

**Mr. Edwards:** Second.

**Mr. Beggs:** Do we have a vote?

**Mr. Tapp:** Karl Walters?

**Mr. Walters:** Approve with the conditions.

**Mr. Tapp:** Jim Edwards?

**Mr. Edwards:** Approve with conditions.

**Mr. Tapp:** Barbara Ball?

**Mrs. Ball:** Approve with conditions.

**Mr. Tapp:** Mark Beggs?

**Mr. Beggs:** Approve with conditions.

**Final Vote:**            **4/0/0    Approved with conditions        July 12-113F; Tranquil Acres**

**Mr. Beggs:** Any other business?

**Mr. Tapp:** None that we need to reflect upon here.

**Mrs. Ball:** We did not have the page here that showed the money part.

**Mr. Beggs:** The permits.

**Mr. Tapp:** It must not have gotten in.

**Mrs. Ball:** Are you guys broke?

**Mr. Tapp:** Yeah we are broke; actually no we brought money in very strongly in June of this year versus the year before.

**Mrs. Ball:** A lot better?

**Mr. Tapp:** A lot better.

**Mrs. Ball:** Good

**Mr. Tapp:** I think \$36,000 is that right?

**Mrs. Viviano:** Yes.

**Mr. Tapp:** For just the building side.

**Mrs. Viviano:** Yes.

**Mr. Tapp:** We are getting more, slowly but surely.

**Mrs. Ball:** So we don't have anything for next month?

**Mr. Tapp:** No.

**Mrs. Ball:** So are we not going to be here?

**Mr. Tapp:** Don't have to be, you could come if you want.

**Mr. Beggs:** Do I have a motion to adjourn?

**Mrs. Ball:** Mr. Chairman I make a motion that we adjourn.

**Mr. Edward:** Second.

**Mr. Beggs:** All in favor?

**All:** Yes.

**Meeting Adjourned**

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*Chairman, Planning & Zoning Commission*

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*Secretary, Planning & Zoning Commission*

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*Recording Secretary*